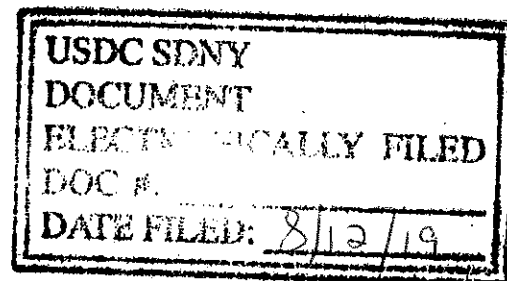


JULY 29, 2019

[BY FAX: (212) 805-7941]

THE HONORABLE LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET
NEW YORK, NEW YORK 10007



Re: United States v. Razhden Shulaya, Docket No. 17 Cr. 350 (LAP)

Dear Judge Preska:

Defendant respectfully submits this letter-motion seeking the appointment of counsel and the authorization of funds to retain a private investigator for the purpose of moving the Court, pursuant to Rule 33(a) of the Federal Rules of Criminal Procedure, for a New Trial based on Newly Discovered Evidence. For the following reasons, this application should be granted.

On May 16, 2019, at 4:14 PM, an individual referred to by the Government as an alleged coconspirator and assault victim in this case ("CC-1") -- ALEKSEY TSVETKOV a/k/a "Peimlin" -- reportedly stated, in substance and in part, in the presence of at least two federal prisoners, whose identities are known, amongst other relevant things, the following:

- a. At no time did he [TSVETKOV] participate in any illegal activity with Razhden Shulaya;
- b. At no time did Razhden Shulaya ever assault him [TSVETKOV] and that the cooperating witness who testified to the contrary during Razhden Shulaya's trial provided knowing false testimony insofar as he testified that Razhden Shulaya had slapped or physically assaulted (TSVETKOV); and, if Razhden Shulaya had physically assaulted TSVETKOV, "he [SHULAYA] would have been shot that night";
- c. Although he [TSVETKOV] and Razhden Shulaya did have a verbal disagreement, and no time did the dispute become physical;
- d. Razhden Shulaya is not who the Government believes he is in terms of his alleged "vor" and/or "thief" status; and,
- e. He presented Razhden Shulaya with a crossbow as a birthday gift at the time he attended a birthday celebration for Razhden Shulaya, and not as a "tribute," as the Government alleged.

The Government relied heavily upon the testimony of a cooperating witness to establish that the alleged assault of Mr. Tsvetkov had occurred. The same evidence was relied upon by the Probation Office in preparing the presentence report, and the Court relied heavily upon the false allegation in fashioning the 45 year term of imprisonment that it imposed upon defendant, and in making an exceptionally strong recommendation to the Bureau of Prisons that it rely upon Defendant's alleged violent behavior in designating an appropriate facility wherein Defendant would serve out his 45 year term of imprisonment. The Bureau of Prisons honored the Court's recommendation designating the Defendant to maximum security prison. The information relied upon by the Court, Probation and the jury was false, inaccurate, and violated Defendant's right to a fair trial and to a sentencing based upon actual fact and not fiction.

Defendant seeks the appointment of counsel and the authorization of funds for a private investigator to contact the prisoner witnesses and secure affidavits essential to the presentation of a motion for a new trial.

In the interest of justice, and for the reasons stated, the Court should grant this motion in its entirety.

Respectfully submitted,

/s/ Razhden Shulaya

RAZHDEN SHULAYA
REGISTER NO. 54114-048
U.S. PENITENTIARY -- HAZLETON

cc: Andrew Thomas, AUSA
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